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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Nineteenth session

SUMMARY RECORD OF THE 47th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 27 November 1998, at 10 a.m.

Chairperson: Mr. ALSTON

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GE.98-19992 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Canada (continued) E/1994/104/Add.17; HRI/CORE/1/Add.91; E/C.12/Q/CAN/1; in-session document with no symbol containing the replies of the Government of Canada to questions raised in the list of issues)

1. At the invitation of the Chairperson, the members of the delegation of Canada resumed their places at the Committee table.

2. Ms. LEVASSEUR (Canada), replying to questions asked at the previous meeting concerning the structure of government, said that the Constitution conferred legislative and executive powers on the Federal Government and provincial governments in their respective areas of competence. Fuller details were to be found in paragraphs 47 et seq. of the core document (HRI/CORE/1/Add.91). The Federal Government was empowered to ratify international conventions, but consulted the authorities of the provinces and territories before so doing. It could not compel a province to adopt a law or to take measures to implement a treaty in a field falling exclusively within the latter's competence, but experience had shown that, in the hypothetical event of a conflict's arising, it could readily be resolved through cooperation or political mechanisms. Furthermore, the Canadian Charter of Rights and Freedoms, which was an integral part of the Constitution, protected a number of rights guaranteed by international instruments, and interpretations of its provisions by the Supreme Court were binding on the provincial governments. The "notwithstanding clause", which permitted those governments to adopt a law derogating from certain of the rights guaranteed by the Charter, had been used only exceptionally, and did not apply to international obligations. Its effects ceased automatically after five years, whereupon it could be renewed.

3. The proposal to add social condition to the Canadian Human Rights Act as a prohibited ground of discrimination was currently before Parliament.

4. Mr. YURKOVICH (Canada), reverting to the question of refugee claimants, said that any "convention refugee" in Canada was afforded the full protection of the Convention on Refugees, irrespective of permanent residence status. Children of asylum seekers and refugees were entitled to attend public schools under provincial jurisdiction. Persons detained under the Immigration Act were held in special detention facilities, not in ordinary jails. Children were detained only exceptionally, for periods not exceeding three days. Consequently, access to education for children held in detention was not a problem.

5. Mr. MOHER (Canada) confirmed that the negotiations on the Multilateral Agreement on Investment (MAI) had now ceased and that the Organization for Economic Cooperation and Development (OECD) was preparing a report on possible follow-up. The Government of Canada was committed to an open and constructive

dialogue with its citizens on all international trade and investment negotiations. The consultation process regarding MAI had enabled it to hear the views of thousands of its citizens and to engage in dialogue with large numbers of municipalities, provincial and territorial authorities and interest groups.

6. Ms. CHARRON (Canada) said that the Federal Government had been working to advance women's economic and social rights and to adopt programmes and policies to advance gender equality and help women attain autonomy. It was committed to meeting its obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Canadian Charter of Rights and Freedoms and the Canadian Human Rights Act. It had adopted a holistic, multidisciplinary approach to violence against women, and had acted to promote their health and well-being, by favouring social systems that supported women and their families. Since 1980 poverty among elderly women had declined as a result of pension reforms. Younger women were making greater strides in higher education and employment. Child support and benefit reforms were improving the situation of mothers and low-income families. The Employment Equity Act had been strengthened and legislation enacted to protect women and children from sexual exploitation. Support to Aboriginal women had been increased, and centres of excellence for women's health set up countrywide.

7. Mr. MUNDIE (Canada), replying to questions regarding the Canada Assistance Plan Act (CAP) and the Canada Health and Social Transfer (CHST), said that the demise of CAP had not spelled an end to federal or provincial support to persons on social assistance or in need of social services. There were various reasons why CAP had ceased to be an effective mechanism for funding social welfare programmes. During the recession of the early 1990s, many more people had been deemed employable than previously. Such persons were able to live more independent lives if they did not rely wholly on passive CAP-funded income assistance. However, the conditions and rules of CAP had denied funding to many innovative programmes proposed by provinces, because of the requirements of the needs test. Thus, an unintended effect of CAP had been to restrict governments to providing mostly passive income support, while denying financial support to preventive and enabling programmes.

8. When CAP had been introduced in the 1960s, its appeal mechanism for clients had been an important innovation. Since then, the inherent right to appeal had evolved into a recognized right; and all provincial and territorial appeal mechanisms for social assistance cases remained in place under CHST.

9. Provincial and territorial governments had sole responsibility for the social assistance programmes they delivered. CAP and CHST were fiscal transfer mechanisms applied by the Federal Government under its spending powers, to contribute to the cost of eligible provincial programmes, not legislative vehicles to ensure rights or entitlements. Neither funding mechanism played any role in determining benefit levels or eligibility for assistance, which were the responsibility of provincial governments. Thus, contrary to widespread belief, CAP had never guaranteed a specific level of financial assistance.

10. As to whether CAP had prevented the imposition of employment conditions on individuals receiving social assistance, the Plan had set reasonable requirements concerning work availability, such as the requirement to seek work and to accept suitable work. It had contained no ban on "workfare" such as to prevent provinces from designing programmes of that type. In general, however, CAP would not have cost-shared in a programme that made involuntary work participation an absolute requirement for basic welfare payments. As a block fund, CHST did not explicitly or implicitly deal with the issue of employment requirements.

11. Federal-provincial discussions were under way to put in place an agreement setting out the principles, practices and institutions for Canada's so-called "social union". That cooperative approach had commenced two years previously and would continue well beyond the development of a framework agreement, as governments continued to work in partnership, learn from one another, and build better social programmes. The Government of Canada was committed to ensuring that any agreement reflected the views and values of Canadians and respected its international commitments.

12. The CHAIRPERSON said he was concerned that the dialogue between the Committee and the Canadian delegation was failing to rise above the level of generalities. Members should formulate questions in such a way as to elicit more specific answers from the delegation.

13. Mr. TEXIER observed that according to the Canadian delegation all provinces were bound by the Supreme Court's interpretation of article 7 of the Canadian Charter of Rights and Freedoms. Yet, in a number of cases in which individuals had invoked basic necessities, the Attorney-General had affirmed that the Charter did not protect economic rights. He asked how the delegation accounted for that contradiction; and also what concrete measures were being taken to reduce the disproportionately large number of women in the poorest sectors of the population.

14. Mr. WIMER ZAMBRANO said he was pleased to learn that there were apparently so few conflicts of competence and jurisdiction between the Federal Government and provincial governments in matters of implementation of international law. He found it strange that such conflicts should be purely "hypothetical" in Canada, given the frequency with which they arose in all other countries with complex legal systems. Did no mechanism or institution exist in Canada for the resolution of such conflicts?

15. Mr. KOUZNETSOV appealed to the Canadian delegation to show a better understanding of what the Committee was asking of it. What interested the Committee was not, for instance, the fact that the Canada Assistance Plan had been replaced by the Canada Health and Social Transfer, but how that change was reflected in practice in the various governments' social policies and in the situation of Canadian citizens.

16. Mr. PILLAY, reverting to questions 17 to 20 in the list of issues and the written replies thereto, said that all the available figures showed that there had been reductions in welfare benefits, in blatant disregard of the Committee's 1993 recommendation that there should be no such reductions. After citing a number of contradictions between the information just provided

on CAP and that provided in previous reports, he asked why the Federal Government had felt the need to abandon any of the standards and protections for persons in need provided by CAP. In the light of its statements to the Committee on previous occasions, how could the Canadian delegation now claim that CAP had not ensured that everyone in need was entitled to an adequate income? If the Federal Government was able to impose certain standards with respect to health care, why should it not impose the same standards with respect to the right to adequate assistance? Finally, with regard to question 20, were the Federal and provincial governments committed to restoring legal enforceability of the right to adequate social and financial assistance, which had been downgraded to the status of a "policy objective"?

17. Mr. MUNDIE (Canada), replying to Mr. Kouznetsov's remarks, said that the CHST was a demand-driven system designed to respond to actual requirements. It did not seek actively to deny support to those in need. The CHST provided provinces with greater flexibility, in that the needs test had previously hampered Canada's ability to share in innovative programmes that focused on employment skills in the community, and allowed provinces to determine their social assistance budgets. In doing so, they continued to apply many of the basic provisions of the CAP.

18. With regard to whether the Canadian Government would be willing to engage in discussion with a view to restoring the CAP, extensive dialogue already took place between federal and provincial Ministers on the values, principles and objectives that would characterize a broader social union framework.

19. As to whether the introduction of the CHST had provoked a loss of standards, the only CAP provisions that might be described as "standards" were the needs test and the appeals mechanism. The CHST had not significantly altered the basic principle of the needs test, which was still implemented in all provinces and territories.

20. Mr. MOHER (Canada) said that conflict between federal and provincial authorities was a way of life in Canada. A number of cooperative processes, such as the ministerial meetings mentioned by Mr. Mundie, existed to deal with problems that arose in what was still essentially an evolving federal system. Problems that arose between the Federal Government and one or more provincial governments were resolved through a combination of legal and political mechanisms. Finally, with regard to the extremely hypothetical question whether a provincial government might deliberately ignore an international understanding entered into by Canada, he said that if that ever happened the national politico-legal machinery would be brought to bear.

21. Ms. LEVASSEUR (Canada) said that although Canada's Supreme Court had accepted article 7 of the Covenant as the guarantee of the minimum living wage, the actual scope of that definition had still to be defined in law. With regard to the Massé case, she emphasized that the matter was one for the courts of Ontario to decide. That being said, in recent years all laws and programmes relevant to the Covenant had been integrated into the Canadian Charter of Rights and Freedoms.

22. Finally, with regard to possible conflicts of jurisdiction, Canada, unlike certain other countries, had no court specifically concerned with constitutional matters. The court system operated at all levels on a generic basis.

23. Mr. MUNDIE (Canada), replying to Mr. Texier's question on poverty among women, said that the Government was well aware of the problem. Some progress had been made: for example, thanks to changes in the retirement income system over the past two decades the situation of elderly women had been improved. However, though the Government recognized that single mothers had a lower level of income than any other group in society, largely because most of them lived on social assistance, neither the Federal nor the provincial governments accepted the poverty threshold indicator being used.

24. There were other positive signs. Firstly, women's wages were improving slowly by comparison with those of men. Secondly, a major recent initiative, the national child benefit programme, had been introduced as a means of giving those on social assistance, especially single mothers, the incentive to enter the labour market. Under the new programme, child benefit had been taken out of the welfare system, so that those who had families and lived on benefits would no longer suffer a disastrous loss of income if they took a job. Finally, he noted that the majority of Canadian undergraduates were women, and that significantly more women were entering the professions.

25. The CHAIRPERSON asked the delegation to reflect on the fact that the Committee was finding its answers too general. No real effort was being made to contest information from non-governmental organizations (NGOs) and other sources, or to answer specific questions in detail.

26. Mr. CEAUSU said that, although the delegation had described the CHST as a progressive measure, evidence provided to the Committee by a number of concerned organizations indicated that in the year since the repeal of the CAP several groups had suffered disproportionately. In particular, documents provided for the meeting indicated that the number of single mothers living below the poverty line had increased sharply. Moreover, the evidence seemed to indicate that the national child benefit programme was producing a negative impact. Could the delegation provide information on the funding being allocated for services which had previously operated on a cost-sharing basis under CAP? Despite the delegation's assertion that benefit levels were a matter within provincial jurisdiction, the Committee held the Federal Government, which had ratified the Covenant, responsible for all matters within the purview of that instrument. How did the delegation reconcile the cuts made in social assistance with the Government's obligations under the Covenant, particularly with regard to the impact of the CHST on the situation of women?

27. Ms. JIMÉNEZ BUTRAGUEÑO said she would like more information regarding the decrease in social assistance provision under the CHST, which the delegation had acknowledged. One NGO report had even stated that the overall social assistance budget had fallen to 1935 levels. Secondly, with regard to the right to social security under article 9, a recent article in the

periodical Le Devoir of Montreal had highlighted the fact that old-age pensions in Quebec had decreased considerably. Would the delegation care to comment?

28. Mr. AHMED said he found it difficult to view the CHST as a progressive initiative. In 1995 Canada's Minister of Finance, in introducing the new budget, had stated clearly that spending on social security would be reduced to 12 per cent of GDP - the lowest level since 1949. Worse, the introduction of the CHST had also led to inequities in the provision of welfare services, with provinces seeming to compete to introduce the lowest rates once the standards established by the CAP had been abolished. Both the National Anti-Poverty Organization (NAPO) and the National Council of Welfare had noted the continuing decline in welfare provision since the repeal of the CAP. The latter had also reported that inequities in the provision of health care and secondary education were increasing as a result of a significant decline in funding, and that employment insurance benefits had fallen by 40 per cent over the period 1990-1996.

29. A further effect of the CHST was that it had paved the way for the introduction of provincial legislation such as the Social Assistance Act passed in 1997 in Ontario and widely regarded as one of the most reactionary pieces of legislation ever to see the light of day in that province, for it had completely removed the right of those in need to receive a subsistence allowance, which had previously been enshrined in welfare laws and the CAP. Likewise, since the repeal of CAP, successive federal and provincial laws had severely reduced programmes to combat homelessness, to the extent that Canada no longer had a policy in that area. Over the period 1997-1998, the reductions made nationwide in CHST totalled 7.2 billion dollars.

30. Finally, with regard to the right of refugee children to enjoy education on the same basis as Canadians, in February 1996 the Ottawa Citizen had commented on the fact that although the children of refugees had the right to live and work in Canada, they were regarded as foreign students when it came to paying university tuition fees - Canadians paid four times less.

31. Mr. PILLAY said it seemed that, not for the first time in the history of the reports submitted to the Committee, a Federal Government was looking the other way and while provincial authorities reduced social assistance programmes and raised poverty levels. Two examples demonstrated that the flouting of Covenant rights by provincial governments was not so hypothetical as the delegation seemed to believe. Firstly, the Government of Ontario had been able to cut welfare benefit rates by 22 per cent, in contradiction of the Committee's 1993 recommendations, without intervention by the Federal Government. Secondly, the Federal Government had made no response to the announcement by the Government of Ontario that it intended to remove from its human rights legislation the provisions relating to protection against discrimination on grounds of income; that too contravened the Committee's recommendations.

32. Furthermore, the fact that national child benefit was actually clawed back from families living on welfare benefits meant that some 1.1 million people were living below the poverty line in Ontario. Only two provinces did not implement that practice, and the Federal Government did nothing to

intervene, though the Canadian Supreme Court had stated that the Federal Government could impose conditions on funds transferred to the provinces for social assistance purposes. The 1982 Constitution Act recognized that because of its importance social assistance had a national, and not simply provincial, dimension.

33. Finally, he stressed that under CAP the reasons for an individual's being in need had not been a consideration, the Canadian Government's position having been, as stated in official information documents of 1992 in his possession, that CAP recognized social assistance as the right of Canadians who did not have adequate resources to support themselves.

34. Mr. MOHER (Canada) recalled that earlier in the meeting his delegation had offered to pursue inquiries with provincial governments if the Committee felt that insufficient information was available on individual issues. His delegation had not attempted to deny that in recent years Canada had reduced its spending on social welfare; the report and his opening statement to the Committee had made that clear. The delegation had thus concentrated on the new programmes and investment initiatives being undertaken after the period of retrenchment.

35. As Mr. Mundie had pointed out, since the CAP had not established national standards, the CHST could hardly be described as regressive for not doing so either. Instead, federal, provincial and territorial Ministers were engaged in a constant discussion process aimed at establishing appropriate social welfare measures.

36. With regard to specific quotations from statements by ministers or government officials that had appeared in media to which his delegation did not have immediate access, he regretted that work would obviously need to be done to ascertain the context before any response could be given to the Committee.

37. In answer to a question from the CHAIRPERSON, Mr. TIKHONOV (Secretary of the Committee) said that all the documentation made available to the Committee by NGOs both before and during the current session had been provided to the permanent mission of Canada at Geneva.

38. The CHAIRPERSON found it surprising that the Canadian delegation was unaware that material provided by NGOs provided an essential input to the dialogue between the Committee and States parties, particularly in view of the fact that submissions from Canadian NGOs had played an important part in the review of the previous report submitted by Canada.

39. Mr. MOHER (Canada) said the documents issued by NGOs and the views of those organizations had indeed been taken into account by the Canadian Government and the delegation in responding to the points raised. The quality of the dialogue with those organizations was nowhere at issue. His delegation was doing its best to answer as many of the questions put to it as possible, but when such questions were very specific some time would be necessary to provide a detailed response. His particular concern had been that during the presentation that the NGOs had made to the Committee the previous week,

material had been submitted verbally that his delegation had not previously seen in written form, which made response difficult if the point made was not one that had been raised on an earlier occasion.

40. Mr. MUNDIE (Canada), replying to the questions relating to change in the level of social expenditure, said that spending under the CHST programme had fallen from $29.9 billion in 1995-1996 to $25.3 billion in 1997-1998, a drop of $4.6 billion. Of the two CHST components, the tax point transfer portion had continued to grow in the latter period as revenues to governments had increased, and currently stood at $13.5 billion for the present fiscal year. The cash transfer portion had been scheduled to decline from $16.4 billion in 1995-1996 to $11 billion in 1997-1998, but the Government had subsequently raised the cash floor to $12.5 billion. Hence the reduction in cash transfers had been $5.5 billion, not the $7 billion mentioned, while the increase in tax point transfers had brought the overall reduction to $4.6 billion.

41. The increase in the cash floor would add an extra $7 billion to the estimated expenditure for the six years involved. In addition, the CHST would grow by 2.4 per cent a year to reach a total of $28.5 billion in 2002-2003.

42. There were several reasons for the cut mentioned in expenditure under the Employment Insurance Programme: reform of the Programme to bring it back to the principles of social insurance, and changes in the pattern of employment in Canada. The number of persons out of work had declined. In addition, the number of persons self-employed and the number of unemployed persons without work experience, both of which categories were ineligible for payments under the Programme because they did not contribute to it, had increased substantially in recent years.

43. The purpose of the national child benefit system, which would take some time to implement fully, was to channel child income support from the welfare system to a federal-based benefit that would go to some 80 per cent of Canadian families. A first investment of $850 million had been made in 1998. Under the system, provinces would be allowed to reduce the welfare payments they made by the amount provided as federal benefit, but the funds thus saved must be reinvested in programmes for children in low-income families. During the current year, provinces were making investments of some $500 million in a range of income and social benefits. The intent was to encourage persons on welfare, such as single mothers, to forego social assistance since they would receive more benefits under the federal system without losing entitlements to other support such as supplementary health benefits. The provinces were committed to ensuring that no family would be worse off as a result of the introduction of the programme.

44. Mr. MOHER (Canada) said that, according to information from a provincial source, the international student fee policy in Ontario, which had been revised in 1996, was that recognized refugees paid domestic tuition fees and were exempt from the higher fees required of international students. He was unable to answer for the Ontario Government on other specific questions relating to its actions without consulting it further.

45. Mr. AHMED said the reference he had quoted concerned refugees who had been allowed to stay in Canada but whose status had not been recognized despite lengthy residence.

46. Mr. SADI asked how the appeal system under the CHST operated. Had there been any cases in which it had proved effective? Although he sympathized with Canada's budgetary difficulties, he found it difficult to accept that vulnerable groups, and especially women, should suffer as a result of cuts. Could the CHST programme be applied with some degree of flexibility to ensure assistance to the most vulnerable? Were the federal authorities in a position to tell the provincial authorities to adopt such a policy?

47. The Canadian Charter of Rights and Freedoms appeared from the federal point of view to protect a number of rights under the Covenant, but that appeared to be disputed by a number of provinces. In the case of Quebec, for example, the "notwithstanding clause" appeared to enable the province to escape application of federal jurisprudence with respect to the Charter.

48. Ms. BONOAN-DANDAN said that while she welcomed the information that negotiations on the MAI had been halted, she still wished to know whether any consideration had been given to the human rights dimension of the MAI and if there had been any public debate on the subject.

49. The delegation's categorical statement that the CAP had not set standards did not appear to square with paragraph 40 of Canada's second periodic report to the Committee concerning rights covered by articles 10 to 15 (E/C.12/1990/6/Add.3), which said that the CAP set a uniform national standard and also certain standards for the provinces. She would appreciate clarification of the position.

50. To clarify the question she had asked at the previous meeting about the right of appeal, what she wished to know was whether welfare recipients who found the level of assistance accorded insufficient for the maintenance and education of their families were able to lodge an appeal with the courts for review of that level. The matter was of particular significance in the case of women subjected to violence. Information supplied by NGOs indicated that many women who came to shelters, not once but several times, to seek refuge from violent husbands frequently returned to those husbands because they had insufficient access to welfare, on their own, to support their children.

51. Mr. ADEKUOYE asked whether the criticism that had been levelled against the CAP, namely that it led to welfare inequities between the provinces, been resolved in the changeover to the CHST. Had any provinces, as a result of the transfer system used to achieve equity, received an increase in their share in real terms and thus been able to spend more on social services? With regard to the reduction in spending on welfare, he asked for information on the reductions made over the past five years in budget allocations to other areas of expenditure, such as defence and foreign affairs.

52. Mr. MOHER (Canada) said that a dialogue on the MAI had taken place in Canada with the Canadian non-governmental community and with individual Canadians. From the outset of the negotiations, the Canadian Government had

taken great care to ensure that Canadian policies with regard to health care, social programmes, culture, the labour environment, education, and programmes or aboriginal peoples and minorities were safeguarded.

53. Mr. Sadi's question about the effect of the "notwithstanding clause" would be answered by the representative of Quebec at the following meeting when further information had been obtained.

54. Mr. MUNDIE (Canada) said, in reply to Mr. Sadi, that there was no provision for an appeals mechanism under the CHST legislation itself. Under the CAP, it had been a condition of cost-sharing that each province and territory had to establish an appeals mechanism for social assistance clients. That mechanism had remained in place although the CAP was no longer in existence. No procedures had ever been in place for provincial clients to make appeal at federal level since the provinces had responsibility for the administration of social assistance in their jurisdiction.

55. A number of programmes directed to vulnerable groups were already being implemented; two priorities identified by the Prime Minister and premiers of provinces had been children in poverty and persons with disabilities. The national child benefit had been the first investment made for the former group, while a larger national children's agenda was currently under consideration by governments. In the case of persons with disabilities, governments were committed to ensuring that they enjoyed full citizenship in society.

56. As to whether the CAP had set national standards, the Programme had established three conditions that affected the design of provincial programmes: one had been the needs test, the second had been the requirement for an appeals procedure at provincial level, and the third had been prohibition of a minimum residency requirement preventing a person who moved to a province from being granted assistance on arrival. From the legal standpoint, those conditions did not constitute a uniform national minimum standard. They were, however, still in operation and provinces and the Federal Government were continuing to look at further principles for management of social programmes.

57. On the question of equity between provinces, the CHST was moving towards a more equal per capita footing than had existed under the CAP. However, the provision of additional support to provinces with fewer means was dealt with under the equalization programme, based on calculations of ability to raise revenues and economic performance, whereby 7 out of 10 provinces received payments. Information on which provinces had achieved higher social expenditures, and figures giving a breakdown of Canadian Government expenditure over the past five years, were not immediately available but would be provided to the Committee as soon as possible.

58. Ms. CHARRON (Canada) said that the Federal Government was taking a number of measures to reduce violence against women and children within an overall framework of reducing violence in society. A number of amendments to that end had been made to the Criminal Code, which was in force throughout Canada. A national crime prevention strategy which included a system for "flagging" dangerous offenders was in place. Another positive move was the

federal family violence initiative, which provided funds and programmes to tackle violence against women through community-based projects, support for First Nations and Inuit communities, and provision of shelters in urban and rural areas. The Federal Government had also instituted measures to assist victims of violence seeking to escape life-threatening spousal abuse by providing them with new identities by means of de-linked social insurance numbers. Another initiative addressed concerns such as safety, restitution and prevention of further violence in the case of victims of extreme family violence.

59. Mr. SADI expressed concern about the possibility of Quebec's becoming independent from Canada and its implications for the Aboriginal peoples living on its territory. What safeguards existed to protect those peoples' rights, including the right to self-determination, in the event of Quebec's leaving the Federation?

60. The Royal Commission on Aboriginal Peoples (RCAP) had found that many treaties between the Federal Government and the indigenous population were not complied with and had made a series of recommendations on how to protect the economic and social rights of such people in future. What efforts was the Government making to ensure that those rights were upheld in practice?

61. Mr. PILLAY asked whether it was true that the Aboriginal peoples did not live in economically viable communities, since they were denied access to and control over land and resources. Did the Government intend to take any steps to remedy the situation? Would it prohibit the occupation, exploitation or use of Federal lands subject to claims by the Aboriginal peoples? Several years had elapsed since the publication of the report by the RCAP. When would the independent tribunal for settling land claims recommended by that Commission eventually be set up?

62. According to a 1997 report by the United States Department of State, the Aboriginal peoples in Canada continued to be the victims of disputes over claims to land, resources and self-government, alleged police harassment and under-representation in the workforce. What measures was the Government adopting to tackle such problems?

63. Mr. WIMER ZAMBRANO wondered why such scant reference had been made in the report and the written replies to the indigenous population of Canada, when the subject was given such broad coverage by non-governmental organizations and the international press. He had specific information on violations committed against the indigenous population of Quebec and Ontario and would welcome further information on the subject from members of the delegation representing those provinces.

64. Mr. GRISSA said that, although it was in Canada's interest to uphold the rights and preserve the heritage of the many indigenous groups on its territory, there were reports of widespread violations on that score. What provisions existed to protect the rights of such people, especially with regard to mineral resources and fishing?

65. Mr. ADEKUOYE asked whether it was true that one of the reasons why the independent tribunal on land claims had not yet been set up was the

potentially high financial settlements at stake. Furthermore, he would welcome more information on the Manitoba Northern Flood Agreement of 1997, intended to provide compensation for Aboriginal communities whose homelands had been flooded and destroyed. Reportedly, the Government had persuaded the Aboriginal parties to abrogate the agreement by offering them money.

66. Mrs. WHITAKER (Canada) said that the comments by Committee members seemed to imply that Canada ignored Aboriginal issues. The RCAP had been set up in 1991 precisely because the Federal Government recognized the serious difficulties facing the Aboriginal population. Aboriginals had been well represented on the Commission, which over a period of five years, and with a budget of 60 million Canadian dollars, had undertaken extensive research and consultation and made public appearances across Canada. Its final report, issued in 1996, contained 440 recommendations addressed to the Federal, provincial and territorial governments.

67. In January 1998, in response to that report, the Federal Government had released "Gathering Strength: Canada's Aboriginal Action Plan". The Plan represented a long-term approach, which provided for a process of reconciliation, healing and renewal, with the participation of the Aboriginal peoples. Its centrepiece was a statement calling for reconciliation and stressing the importance of dealing with the legacies of the past by drawing lessons from them. Along with that statement, the Federal Government had pledged its commitment to a 350 million dollar community-based healing strategy aimed at individuals, families and communities affected, inter alia, by the physical and sexual abuses committed at residential schools.

68. "Gathering Strength" also contained a statement of renewal, setting forth a vision of a future shared with the Aboriginal peoples. Its key objectives included improving health and public safety, housing and facilities on reserves and encouraging the economic development of Aboriginal peoples. Efforts were being made to make more efficient use of public funds with the long-term objective of reducing the Aboriginal peoples' dependency on government assistance. Significant developments in that connection included the Federal Procurement Strategy for contracts with Aboriginal businesses and an Aboriginal human resource development council.

69. Educational achievements were being encouraged through inter alia, post-secondary education programmes for First Nation students and a project to enhance Aboriginal child development and school readiness. A number of Aboriginal language and culture initiatives had been undertaken: the recent passage of the Mi'kmaq Education Act would help to preserve the culture and education of that ethnic group.

70. As far as the right to self-determination was concerned, Canada had stated its legal and moral obligation to uphold the right to self-determination proclaimed in the Covenant and its recognition that the right applied equally to all groups, indigenous and non-indigeneous alike. In October 1996 Canada had also made a far-reaching statement concerning its understanding of the relevant issues before the United Nations working group on indigenous populations in connection with the preparation of the draft declaration on indigenous rights.

71. Measures to promote Aboriginal autonomy had been a long-standing policy in Canada and had often been the subject of debate at constitutional and community level. At present more than 80 self-government agreements, covering almost half of the First Nations and Inuit communities in the country, were under preparation. A case in point was that of Nunavut, a new territory to be set up in April 1999, which would cover one-fifth of Canada's area, and whose civil service would be 85 per cent Inuit.

72. Replying to questions concerning land claims, she said that since 1763 authorities on the territory now known as Canada had pursued a policy of entering into treaties setting aside certain lands for the indigenous groups. The bulk of the territory of Canada was covered by such treaties. In 1973, the Federal Government had declared its comprehensive policy for the settlement of land claims not covered by existing treaties or other legal arrangements. The first land claim settled under that policy was dealt with in the James Bay and Northern Quebec Act. The settlement provided for the extinguishment of certain rights, cash payments of 225 million dollars for the Cree and Inuit, full harvesting rights covering a territory larger than 150,000 km^2, participation in an environmental and social protection regime, income security provision for hunters and trappers and, last but not least, self-government for the indigenous population under the Cree-Naskapi of Quebec Act.

73. A further agreement which would soon be submitted to the legislature of British Colombia and the Canadian Parliament for ratification was the Nisga'a Final Act. The agreement provided, inter alia, for the indigenous ownership of 1,992 km^2 of land and all sub-surface resources on it, special entitlements to salmon stocks and wildlife harvests, cash payments of 190 million Canadian dollars and self-government.

74. In addition to the comprehensive land claims policy there was also a specific land claims policy, which afforded an alternative means of dealing with land claims under existing treaties. Many claims had been successfully settled under that policy. For some time discussions had been underway on altering existing arrangements for settling land claims with a view to achieving greater autonomy from the Federal Government. The idea of setting up a new independent land claims body had also been mooted.

75. Admittedly there had been some problems over the years concerning the implementation of the Manitoba Northern Flood Agreement. She would provide further details at the next meeting.

76. There were no specific benchmarks for gauging the access of Aboriginals to health, employment and housing. In theory, they should be able to enjoy the same standard of living as other Canadian citizens. However, the Federal Government acknowledged that that was not the case, which was why the RCAP had been established. A variety of measures had been adopted to improve the situation in the short term, including the allocation of more funds for housing. It was hoped that improvements would be effected in the long term through the implementation of the "Gathering Strength" action plan.

77. Mr. CEVILLE said that according to written reply No. 28 Canada did not have an official poverty line. What poverty indicators would the delegation recommend using to determine progress made in alleviating poverty among the population as a whole and its more vulnerable groups?

78. Mr. TEXIER sought clarification regarding the concept of "workfare", and wondered how it could be reconciled with the provisions of article 6 of the Covenant.

79. In 1996, an ILO expert committee had voiced concern over the ban on strikes for port and railway workers in Canada as a whole and agricultural workers in the province of Ontario. The expert committee had requested the Federal Government to limit the ban on strikes to essential public services. Had any progress been made in that area since 1996?

80. Mr. ADEKUOYE inquired what measures had been adopted to support the integration of immigrants in the labour force, such as vocational programmes. He also asked what efforts were being made to help women adjust to changes in the labour market. Surely, as indicated in written reply No. 29, social welfare was not the only answer?

81. Mr. PILLAY observed that Quebec had thus far failed to submit its written replies. He expressed concern about plans to implement by the year 2000 a "workfare" programme which would discriminate against persons under the age of 25. An important human rights organization in Quebec had declared that programme discriminatory. To what extent did the Federal Government take the views of such human rights organizations into account?

The meeting rose at 1 p.m.